

Appendix Tab B

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 - - -
4 STANLEY M. KACZMORSKI and)
5 CARMEN CUPELLI,)
6 Plaintiffs,)
7 vs.) Civil Action No.
8 OFFICE OF THE Controller OF)
9 ALLEGHENY COUNTY and CHELSA)
10 WAGNER,)
11 Defendants.)
12 - - -
13 Deposition of CARMEN CUPELLI
14 Monday, October 28, 2013
15 - - -
16 The deposition of CARMEN CUPELLI, one of the
17 plaintiffs herein, called as a witness by the
18 defendants, pursuant to notice and the Federal Rules
19 of Civil Procedure pertaining to the taking of
20 depositions, taken before me, the undersigned,
21 Eugene C. Forcier, Stenographer Commissioner in and
22 for the Commonwealth of Pennsylvania, at the
23 Law Offices of Ira Weiss, 445 Fort Pitt Boulevard,
24 Suite 503, Pittsburgh, Pennsylvania 15219, commencing
25 at 11:36 o'clock p.m., the day and date above set
forth.

20 - - -
21 COMPUTER-AIDED TRANSCRIPTION BY
22 MORSE, GANTVERG & HODGE, INC.
23 PITTSBURGH, PENNSYLVANIA
24 412-281-0189
25 - - -

1 Q Okay.

2 Would you agree with me that your last job
3 title, at the Controller's Office, was real estate tax
4 investigator?

5 A Yes.

6 Q Did you ever have a written job description
7 for the duties that you performed as a real estate tax
8 investigator?

9 A No.

10 Q You did not.

11 I am going to show you the document.

12 MR. McGRAW: We will mark this. I am going
13 to ask the court reporter to mark this as
14 Exhibit 1.

15 There you are, sir.

16 (Thereupon, Cupelli deposition Exhibit
17 No. 1 was marked for identification.)

18 BY MR. McGRAW:

19 Q Mr. Cupelli, have you ever seen this
20 document before?

21 A Not that I can remember. Not that I
22 recall.

23 Q Do you see at the top where it says, "Job
24 Description: Real Estate Tax Investigator"?

25 A Yes.

1 Q It says, "Department/Bureau/Division:
2 Controller's Office/Support Services/Administration
3 Division"; is that correct?

4 A Yes.

5 Q Would you agree with me, that this appears
6 to be a written description of your position as real
7 estate tax investigator?

8 A Yes.

9 Q And do you see where it lists an original
10 date of May 6th, 2011?

11 A Yes.

12 Q Just above that, I should ask you, it
13 characterizes it as "Bargaining Unit: Non-Union."
14 You were not in the union when you were functioning in
15 this role; correct?

16 A Yes, correct.

17 Q Do you know who prepared this document?

18 A No.

19 Q Do you recall providing any information for
20 the preparation of the document?

21 A I don't recall that.

22 Q Do you know at whose direction a job
23 description like this was prepared, or would have been
24 prepared?

25 A No.

1 Q As I said, the document reflects a date of
2 May 6, 2011; correct?

3 A Yes.

4 Q Do you agree with me that that was around
5 the time, I believe within a few days of the
6 Democratic primary, the most recent Democratic primary
7 for the Allegheny County Controller's race?

8 A Yes.

9 Q The document indicates, up in that top box
10 again, that the position reports to the T-A-W manager,
11 or perhaps TAW manager.

12 Did you report to the TAW manager?

13 A Yes.

14 Q Who was the TAW manager?

15 A If I am correct, it was Stanley Kaczmorski?

16 Q And Mr. Kaczmorski was formerly your
17 co-plaintiff in this lawsuit?

18 A Yes.

19 Q Mr. Kaczmorski was making the same
20 allegations against the Controller's Office, that you
21 are in this lawsuit?

22 A That, I don't know. I don't know what you
23 want.

24 Q Okay.

25 A Also, let me add this, that the manager, we

1 also had a person named Art Victor that may have been
2 that, the manager at that time.

3 Q At which time?

4 A At this particular time, in May.

5 Q Okay. So, Art Victor may have been in that
6 role, after Mr. Kaczmorski?

7 A No, Art Victor was above both of us.

8 Q I see.

9 A To which we were reporting to him on a
10 daily basis.

11 Q Okay. so Mr. Kaczmorski maybe reported to
12 Art Victor?

13 A Correct.

14 Q Okay.

15 A And I was also.

16 Q Okay.

17 Moving down a bit here on the document, to
18 the bold type face that says, "Position Summary," it
19 says that the real estate tax investigator works under
20 the general supervision of the Assistant Deputy
21 Controller; is that correct?

22 A Yes.

23 Q It says that you investigate records in
24 regards to county wide property assessments, property
25 liens and sheriff sales.

1 Did I read that correctly?

2 A Correct.

3 Q What kind of records did you investigate,
4 in regard to county wide property assessments, that
5 first item on the list?

6 A The Controller at that time was interested
7 in the property assessment that has so much, so many
8 problems.

9 We were getting phone calls on a daily
10 basis, and what we did, went to check on the
11 properties, went to see the properties that -- check
12 value on the computer lines, and people were
13 complaining the same property were to different
14 values, and Mark Flaherty was interested in knowing
15 that.

16 Q So the Controller's Office was receiving a
17 high volume of phone calls about discrepancies in
18 property values?

19 A Correct.

20 Q Perceived discrepancies by taxpayers?

21 A Yes.

22 Q And you said Mr. Flaherty was interested in
23 attempting to resolve those?

24 A Yes.

25 Q When you say the county wide property

1 assessment, were these problems prompted by the now
2 infamous reassessment that we have heard so much about
3 over the last couple of years?

4 A Correct.

5 Q Okay.

6 What sort of information, when you went
7 on -- I am going to characterize it as one of these
8 investigations, what sort of information were you
9 looking for, looking to collect?

10 A Well, we gather the value from the
11 computers as to assess the value, the market value the
12 properties, and follow up, check on these properties,
13 and then make phone calls to the people that were
14 calling us, to justify that.

15 Q What was the ultimate outcome then?

16 Okay. So you went on the county website,
17 and you checked on the values on the county website?

18 A Right.

19 Q That is public information; correct?

20 A Yes.

21 Q What was the ultimate outcome of your work,
22 or the Controller's Office's work, on behalf of a
23 taxpayer who called in the complaint?

24 A Well, the complaints were always the same,
25 "My property next door, exactly the same, has a value

1 200,000, the property next to me, that's valued at a
2 hundred thousand. Why? And what's the reason?"

3 And those were mostly the complaints.

4 Why --

5 Q Did you -- I'm sorry go ahead.

6 A Why they were taxed at the different
7 values.

8 Q So did you receive these phone calls
9 directly?

10 A Some of the phone calls came into the
11 office, were direct to me.

12 Q What did you tell the taxpayer to do
13 when they said, "I think my house is estimated higher
14 than my neighbor's and I don't think that is fair"?

15 A "We will check into it, and get back to
16 you," and we did that.

17 And then, we really -- we looked at the
18 properties, how much square footage they had, if it
19 was the same as others, and then we make the phone
20 call as to try to resolve their problem.

21 Q Phone call to whom?

22 A To the taxpayer.

23 Q Did you make a phone call to anybody else,
24 on behalf of the taxpayer?

25 A No, just the people who were calling us.

1 Q So could you have done anything, from the
2 Controller's Office, about the value of their home,
3 whether it was fair or unfair, in your opinion?

4 A No. I -- no.

5 Q So the Controller's Office wasn't able to
6 say, "Okay. Now the value of your home is X amount
7 less"?

8 A No. No.

9 Q Were you giving them -- well, let me ask
10 you this: You are familiar with the appeal process
11 that the taxpayers have available to them, for
12 their" --

13 A Correct.

14 Q Okay. Were you supplying legal advice to
15 taxpayers, as with respect to what they should do in
16 the appeals process?

17 A No.

18 Q Were You rendering an opinion as to whether
19 or not the value of their home was fair or unfair?

20 A No.

21 Q What were you telling them, when you called
22 them?

23 A The phone calls were just based on a little
24 comfort as to the reason why as a taxpayer.

25 We were not giving legal advice, not at

1 all. We were just looking into the properties, and
2 say, "Your properties, we don't know the reason why
3 one is higher than the other."

4 Q Did you produce any written report to them,
5 and say, "We investigated your assessment, and this is
6 what we think"?

7 A No. They were happy with the phone calls,
8 that someone was looking into the problems they had,
9 and that they had an opportunity to appeal the
10 assessment.

11 Q So there was never any written work product
12 with regard to this work?

13 A No.

14 Q Did you inform the taxpayers, initially,
15 when they contacted you, that there was nothing you
16 could do about the value of their home?

17 A Yes, we did.

18 Q And they asked you to investigate the value
19 still?

20 A They didn't ask to investigate. They were
21 looking for a little comfort, as to why. They were
22 ranting to some people, they were complaining, they
23 had to complain to someone, and we were getting those
24 phone calls at the Controller's Office.

25 Q What did you typically say to them that

1 provided that comfort?

2 A Well, we usually took the block and lot
3 numbers, address, went to look and make sure that the
4 properties were the same, and not the same by square
5 footage and value, and others, and we just made a
6 phone call back, saying, "This is your opportunity to
7 appeal and change it, and Allegheny County may change
8 it."

9 Q Did you advise them whether you thought it
10 was a good idea for them to appeal their specific
11 property?

12 A I -- no. No.

13 Q So it would be fair for me to say, you
14 reviewed their property on the county website?

15 A Yes.

16 Q After they contacted you?

17 A Yes..

18 Q And you called the taxpayer back?

19 A Right.

20 Q And you recited information that they
21 already knew back to them?

22 A Correct.

23 Q And again, no written report, no written
24 work product, really, to that?

25 A No.

1 Q Okay.

2 The second item is property liens.

3 What kinds of records did you investigate,
4 with respect to property liens?

5 What is a property lien? Let's start with
6 that.

7 A When property gets liened it's to a
8 nonpayment of taxes, and that kind of liens the
9 property, and eventually in the future they might have
10 a sheriff's sale, and those kinds of things, that is
11 the property, if they were late with payment of taxes.

12 Q And you investigated these liens?

13 A Well, we had phone calls, that they come in
14 and say, "I paid my taxes, and I show that I owe them
15 \$5 plus the cost, and others."

16 Obviously, I went next door to the
17 Treasurer's Office, and said, "I had a phone call from
18 this individual, and they claim that they" -- and we
19 search, and did whatever, there was a balance of \$5,
20 plus the costs, and others.

21 We called back, and say that they still
22 owed the \$5 plus the costs. That was not completely
23 paid. Or they paid late. Or they paid --

24 Q What sort of records reflect that, what
25 kinds of records did you review?

1 A Treasurer's Office has all of those
2 records.

3 Q So this is primarily a function of the
4 Treasurer's Office?

5 A Primary the Treasurer, but we were getting
6 those phone calls.

7 Q How frequently did those phone calls come,
8 did you estimate?

9 A At the highest point, maybe one a day, two
10 a day, three a week, you know, there was --

11 Q Is that a typical function of the Allegheny
12 County Controller's office in your understanding, or
13 was that just something that a taxpayer erroneously
14 called you?

15 A Well, the taxpayer know it's the
16 Controller's Office, they probably were looking for
17 answers.

18 Q Did you inform the taxpayer that that was
19 information that they would -- that would be more
20 properly inquired about at the Treasurer's Office,
21 since it is a Treasurer's function?

22 A Well, because we assume that all the
23 taxpayer only have this knowledge, they grab it, the
24 first phone number, and they call. You know, some
25 went to one department, some went to another, but that

1 was the reason for the phone calls.

2 Q Okay.

3 A We tried to be helpful on the phone calls
4 we were receiving.

5 Q Who directed you to investigate those
6 property liens, and do that for taxpayers?

7 A This was something that Mark Flaherty
8 wanted done.

9 Q Did you produce any written report, based
10 on those investigations, based on the property lien
11 investigations; any writing?

12 A No, there was no need to.

13 Q Because you didn't write a letter to the
14 taxpayer, send it --

15 A No.

16 Q -- saying, "I looked into your property" --

17 A No.

18 Q -- "your tax lien, and here is the file"?

19 A No.

20 Q Did you call them back?

21 A Yes, I did.

22 Q The third item on the list is sheriff's
23 sales. What kind -- you said you reviewed,
24 investigated records in regards to sheriff's sales;
25 what kind of records did you review with respect to

1 sheriff's sales?

2 A Sheriff's sales. Always had problems with
3 the sheriff's sale, in recent way that the properties
4 up for tax liens, and others, they were put up in the
5 sheriff's sale, to which the time came when it was
6 sold at sheriff's sale. We also knew it, that some of
7 the law firms in the city were, at the last moment, to
8 the sale, they would sell this property free and
9 clear, with the court order, to which that, the owner
10 of the property may have a loss to that property for
11 few thousand dollars, or a few hundred dollars.

12 And we were aware of those things, and
13 Mark Flaherty was also interested in find out exactly
14 why it was going on.

15 Q You said there were certain law firms
16 around town that were --

17 A Yes.

18 Q And explain to me again, it is hard to
19 follow you there, what was problematic about what was
20 happening there?

21 A What was happen was that the property goes
22 up for sheriff's sale, will come a day that the
23 property is sold at sheriff's sale. There was deposit
24 for a hundred thousand dollars.

25 Once the day of the sale came into play,

1 the property, instead of selling for a hundred
2 thousand dollars, they may have been sold for cost
3 only, 1,700, for attorney fees, and this was a known
4 going problem that they had.

5 And the Controller was interested in
6 knowing what went on, how the it came to that point.

7 Q The nature of a sheriff sale -- correct me
8 if I am wrong -- is such that a property may be listed
9 for a given amount, an amount that is being sought,
10 but unless a bidder shows up to pay that amount, it
11 doesn't sell for that amount; is that correct?

12 A No, because we had people -- we have the
13 bid that they shopped for the property. The property
14 sale started let's say a hundred thousand dollars, but
15 at some point, if no one was bidding 100,000, we had
16 problems. The attorney used to say, "We will sell, no
17 bidder there at a hundred thousand, let's lower it to
18 40,000."

19 Once it is lowered to 40,000, we still had
20 no bidders, because the property was too high, or
21 whatever the reason was. At the last, very last
22 moment, they said, "We will sell the property for cost
23 only."

24 Q Uh-huh.

25 A And we always say for cost only, and not

1 only they sold for cost only, they also sold for what
2 is considered free and clear. Free and clear was all
3 the tax, or the revenues, you know, that was a court
4 order that they had, to which was made, the property
5 was made free and clear, and there was always one
6 buying the property.

7 Q What was there for you to investigate,
8 then? It sounds to me, someone didn't want to pay for
9 what they were asking for it.

10 A Well, that is not for me, that is a
11 question for Controller Flaherty.

12 Q What did you tell him when you got back?

13 A Of course, I tell him what happened.

14 Q He sent you to find out the reason; didn't
15 he?

16 A He didn't send me to find out the reason,
17 he sent me there to find out what went on at the
18 sheriff's sale, and I said exactly what I said.

19 Q So you told him what went on, the property
20 sold for --

21 A What went on, the property was assessed for
22 100,000, and was sold free and clear and for cost
23 only, 1,700.

24 Q He knew that's going in, that's why he sent
25 you in the first place; isn't it?

1 hundred thousand, may have a lien by taxing body for
2 60,000. If you buy the property now at a certain
3 price, the tax follows the property. The Duquesne
4 Light light bill follows the property. All of those
5 things follow the property as a cost.

6 But if they sold the property free and
7 clear, what I said was that they went to court, they
8 got a court order, to which it was clear all the
9 costs, all of those costs.

10 And someone could have the property for a
11 thousand dollars.

12 Q Is it your testimony that Controller
13 Flaherty did not previously understand the process
14 that you just described to me?

15 A I don't know if he understood or not. I
16 don't know what he understood.

17 I know that I was sent there, and those
18 were the basic reasons we were there, to see if it
19 really happened.

20 Q And I'm not trying to trick you,
21 Mr. Cupelli.

22 A Yes.

23 Q I just want to know what Controller
24 Flaherty didn't know, that he needed to know, and he
25 needed to send you to a sheriff's sale to come back

1 and tell him, and then -- well, why don't you tell me
2 that first, what did he not know?

3 A I don't want to be disrespectful to you,
4 but I think you need to subpoena Controller Flaherty,
5 he knows the answer.

6 Q Well, did you not understand why you were
7 being sent to the sheriff's sale?

8 A I know that I was there, he says, "You go
9 to the sheriff's sale," and every sheriff sale I went
10 to.

11 Q What did he ask you, when you got back from
12 the sheriff's sale?

13 A The conversation was always the same for
14 those reasons.

15 Q Did you write a report and give it to him?

16 A He -- no. He didn't ask for a report.

17 "Did you go to the sheriff's sale?"

18 "Yes."

19 "What did happen today?"

20 "This went on."

21 "Okay."

22 Q You went to every sheriff's sale?

23 A I did.

24 Q And they happened once a month, typically;

25 is that correct?

1 A Right, correct.

2 Q First Monday of the month?

3 A Correct.

4 Q When was the first, if you recall, around
5 the time period, the first sheriff's sale that
6 Controller Flaherty sent you to?

7 A Oh, God.

8 Immediately after he was -- won the
9 election, and the --

10 Q What did he say when he sent you the first
11 time? "Carmen, go find out this for me," what was
12 that?

13 A He wanted someone at the sheriff's sale,
14 see if those things are really went on.

15 Q Did he ask you -- well, to see if those
16 things really went on. He could find that out by
17 looking at a documentation, post sheriff's sale;
18 couldn't he? I mean, is there documentation at the
19 sheriff's sale, of what went on; is there
20 documentation as to what property sold for at a
21 sheriff's sale?

22 A I don't have the answers to that.

23 Q Okay. So you don't know if it's public
24 knowledge, as to what property?

25 A I am sure it is public knowledge. I don't

1 have answer as to why he sent me.

2 Q Okay.

3 Did he direct you to tell anybody else in
4 the Controller's Office what you saw that day at the
5 sheriff's sale; is it, "Carmen, produce this report to
6 this employee, after you get back"?

7 A No.

8 Q Did that ever happen?

9 A No.

10 Q You never went and saw anybody else in the
11 Controller's Office --

12 A No.

13 Q -- and say, "Here is what happened at the
14 sheriff's sale"?

15 A No.

16 Q And you never saw any outcome of your
17 investigation at the sheriff's sales, as far as a
18 report that was issued by the Controller's office
19 after the fact; the things that you told Controller
20 Flaherty were never, say, published in a report by
21 him, or anything like that, that you know of?

22 A Not that I know.

23 Q Yes.

24 Is there a log at the sheriff's sale; did
25 you sign into a logbook, that you were there?

1 A There was no log there.

2 Q Did you ever talk to the sheriff?

3 A Oh, of course, I spent time with the
4 sheriff every day.

5 Q Did the sheriff ever call you and ask you
6 for an opinion about, say an upcoming sale, or a sale
7 that just happened; call you at the Controller's
8 office?

9 A He did.

10 Q What did he ask you about?

11 A He didn't ask about it, he gave us some
12 information regard to some sales, the way the sales
13 were sold, the properties were sold under this
14 condition, I just tried to --

15 Q What kind of information was that; what did
16 he tell you?

17 A Well, I remember one specific occasion,
18 2007, 2008, 2009, I am not sure, in there, there was a
19 golf course sold in the Monroeville area, that I don't
20 recall, they gave a 10 percent down, Friday was the
21 date that they had to pay the balance, couple hundred
22 thousand dollars, or so.

23 The buyer, the seller, there was a taxing
24 body seller, they all show up at the sheriff's sale,
25 and the fellow said, the buyer said, "Well, you know,

1 I changed my mind," and the policy, the sheriff, he
2 said, "If you change your mind, you lose the
3 10 percent," you give it to them the day of the sale.

4 He was prepared to lose 10 percent on this
5 property.

6 But at the same time this going on, there
7 is a third person there, to which he's going to buy
8 the property again, not for the sale that was sold at
9 sheriff's sale, but even for less, and yet the taxing
10 body, that brought the sale, okayed the sale to be
11 sold for even less than what was sold originally.

12 Actually, there is a court, Superior Court, or
13 Commonwealth Court decision on that, that they
14 reversed the sale.

15 Q So, what did that sale have to do with the
16 Controller's Office then?

17 A I don't -- that, I don't know.

18 Q What did they ask you to do in the context
19 of that sale?

20 A That has to do -- well, that's the first
21 time I brought it to his attention, that this was
22 going on.

23 Q But, you brought this to his attention, to
24 the sheriff's attention?

25 A The sheriff's department call me, that this

1 was an ongoing situation, and I mentioned it to
2 Mark Flaherty.

3 Q What did Mark do with that information; do
4 you know?

5 A Well, that's how I think, how we started to
6 go to the sheriff's sale from then on.

7 Q Did the Controller's Office produce a
8 report; did they do an audit based on what you found
9 out there?

10 A That, I don't know.

11 Q So, is it fair so say, then, that when you
12 went to the typical sheriff's sale, you observed
13 whatever it is that you observed at the sheriff's
14 sale, and then returned to the office, and didn't
15 speak, nor otherwise communicate to anybody about what
16 you had just observed there?

17 I mean, did you go and find anybody and
18 talk to them about it?

19 A I had no reason to, no.

20 Q All right.

21 Back to the job description you have in
22 front of you there, there is an itemized list of
23 duties, and it's the next bold face type on down
24 there.

25 The first thing says that you investigate

1 all requests from Allegheny County taxpayers related
2 to property assessments.

3 Now, we talked a little bit about that
4 already. Just so that I am clear, that was you got a
5 phone call, and then you called them back with the
6 information from their property card on-line; is that
7 correct?

8 A Correct.

9 Q Okay.

10 You -- on that subject, you were let go,
11 you were furloughed, or terminated, whatever you want
12 to call it, by the Allegheny County Controller's
13 Office January 2nd of 2012; is that right?

14 A I was let go. I was let go, January --
15 yes.

16 Q And you said this stuff that you do with
17 respect to property assessments, most of that is
18 already happening as a result of the county wide
19 reassessment; correct? They were calling you, because
20 they got their new assessed values, the taxpayers?

21 Would you agree with me that the new
22 assessed values, under the county wide reassessment in
23 Allegheny County, were not released to the taxpayers
24 until January of 2012? In the city at least?

25 I realize other jurisdictions had different

1 What were you investigating there? I mean,
2 was that -- again, we talked about it to some extent,
3 but judgment requests, this is the first we are
4 hearing about that, what did you investigate with
5 respect to the judgment requests?

6 A Well, Allegheny County liens the
7 properties. And people were getting liens for \$5, for
8 a \$10. Those records are available. For \$5
9 nonpayment of tax, we lien properties, and we were
10 getting phone calls as to, "I did pay," "I did not
11 pay," I did others, we went to investigate the
12 situation, then get back to the people and say, "You
13 still owe the \$5, that was the reason why the property
14 was liened."

15 Q What's a judgment request?

16 A Well, the judgment was for a judgment on a
17 property.

18 Q Is it the same as a lien?

19 A A lien.

20 Q Okay. And you investigated these judgment
21 requests -- it says from taxpayers and management.
22 That would have been a request from management?

23 A They were interested at the time, because
24 they were also getting phone calls.

25 Q Who is they?

1 A Mark Flaherty.

2 Q Mark Flaherty?

3 A I don't know, the office, or personnel, or
4 whatever, but I was given a piece of paper, say,
5 "Here, this is the block number, has a lien, judgment
6 on this property. Why?"

7 Q And, did you typically find out why?

8 A Yes.

9 Q And then you -- as we talked about earlier,
10 you called the taxpayer back?

11 A Yes.

12 Q But you didn't write them a letter, or give
13 them any report?

14 A No, there was no need for a letter, "You
15 pay the \$5, release your property."

16 Q Okay. So you called back and said, "You
17 should pay \$5"?

18 A Well, whatever the amount was, I am not
19 sure it was really \$5

20 Q Okay. Did you report back to Mark when you
21 did that?

22 A Yes, I did.

23 Q It says you investigate all requests from
24 taxpayers related to tax collection.

25 Specifically, what does that mean? Now we

1 are talking about tax collection. What did you do
2 with respect to tax collection?

3 A I -- tax collection, and tax lien, to me,
4 is the same.

5 Q So, are you saying that this line, which
6 reads, "Investigates all requests from taxpayers
7 related to tax collection," is perhaps duplicative of
8 the line before it, "Investigates tax liens and
9 judgments from taxpayers and management;" are those
10 two the same thing in your mind?

11 A In my mind, they are the same.

12 The tax collection were from people that "I
13 did pay my taxes, why do I get this notice?"

14 It wasn't paid, or it was because they were
15 paid late, and they still -- this was all interrelated
16 to that.

17 Q So, did taxpayers call the Controller's
18 Office and say --

19 A "I paid my taxes, why am I getting this
20 letter from the office?"

21 Q Is the Controller's Office responsible for
22 collection of taxes, directly?

23 A I am not certain.

24 Q Okay. Were you aware of anybody in the
25 Controller's Office acting in the role of tax

1 collector?

2 A The Treasurer is the tax collector.

3 I may be wrong, that the mailers also have
4 Controller's Office name on it.

5 Q What has the Controller's Office name?

6 A The mailer that went to customers.

7 Q Okay. Did anybody in the Controller's
8 Office act in the role of tax collector?

9 A I don't know. That I don't know.

10 Q Did anybody ever leave the office and say,
11 "I am going out to collect taxes," did anybody say,
12 "Today I'm going over some tax collection
13 documentation," to you?

14 A No.

15 Q But you were investigating them; right?
16 Did it ever come up, that you folks were also
17 collecting taxes?

18 Did Mark ever say, "We have a problem with
19 the taxes that we are collecting;" was that ever
20 mentioned to you?

21 A I -- no.

22 Q Okay.

23 A We don't collect the taxes.

24 Q So would you agree with me, that it's --
25 I am going to characterize it as virtually impossible

1 that you were investigating anything related to the
2 Controller's Office collection of taxes?

3 A Only if we got phone calls.

4 Q Okay.

5 A We do get phone calls, saying, "I paid my
6 taxes, and I'm still get a mailer, why am I getting a
7 a fee, plus all of those things, because my taxes are
8 paid."

9 Q I am a little bit unclear how you were
10 getting these phone calls. I mean, physically. I
11 know this is a weird question, but I guess when you
12 call the Controller's Office, you get a receptionist;
13 is that right?

14 A Yes.

15 Q If the receptionist picked up this call,
16 and there was a taxpayer on the line saying, "I am
17 having a problem how my taxes are being collected,"
18 they patched it through to you?

19 A Yes.

20 Q And you were sitting at the desk waiting to
21 get these phones calls?

22 A Well, either I was sitting on the desk or
23 whenever I come back I get a note that taxpayer so and
24 so called, and return the phone call to her, and I did
25 that.

1 Q How frequently would this happen?

2 A There was a period time it was frequent,
3 every -- on a daily basis.

4 Q What period of time would that have been?

5 A I -- you know, I don't really recall that.

6 Q But not consistently; it wasn't
7 consistently a frequent issue; is that fair to say?

8 A It was not on a daily -- daily basis,
9 no. There were the times the taxes were mailed out.

10 Q So what did you do on the day that there
11 weren't phone calls from misguided taxpayers calling
12 you about things that the Controller's Office doesn't
13 do?

14 A We always had a problems, went -- spent
15 more time, I spent probably more time in the sheriff's
16 office, related to properties.

17 I -- we were doing a project with Marcellus
18 shale, as mentioned before, all of us went to work
19 there for months and months.

20 We -- let's see.

21 We -- Kaczmarek, Stanley and Art Victor,
22 they wanted to -- I was mostly checking high end
23 properties, they went on the tax role for 40 percent
24 of the value, or 30 percent.

25 I remember one particular case that there

1 was a \$8 million home, assessed at \$8 million, but
2 they were paying tax only on 900,000. So, every day,
3 I used to look for those properties.

4 Q When you found one of them, what did you
5 do?

6 A I give them to Stanley, and Art Victor.
7 Q Do you know what happened to that
8 information after that?

9 A I remember we had a conversation as to, if
10 we bring that value, to assess the value to market
11 value, the county have a benefit of millions of
12 dollars in tax revenue.

13 Q To your knowledge, are taxing bodies,
14 municipalities, whether that is a school district, or
15 a township, whatever the case, the county, even, are
16 they permitted to appeal the value of a parcel of real
17 estate, just as a taxpayer is permitted to appeal that
18 value?

19 A Yes.

20 Q The situation, that you just described to
21 me, wherein someone is being taxed at 30 percent of
22 their true value, something like that, did you flag
23 that for the Office of Property Assessment, or for
24 that matter, did you contact the municipalities and
25 let them know that they had a dramatically under

1 valued parcel within their municipal boundaries, that
2 they might want to take a look at?

3 A I remember correctly, they were all given
4 to Stanley, and Art Victor.

5 Q Okay.

6 A I used to print them, and give copy to
7 them, so --

8 Q You don't know what Stan and Art did after
9 that?

10 A I don't know what Stan and Art did with it.

11 Q The next item on the list here says that
12 you answer citizens' requests for land, mineral rights
13 and right-of-way issues.

14 Can you give me some examples, or tell me
15 what went on there, with the land and mineral rights,
16 and so on?

17 A Well, this was the Marcellus shales.

18 Q Okay.

19 A We spent months looking at those
20 properties, the mineral rights, the mineral rights to
21 the airport, the Federal Government, all of those
22 things.

23 Q You say "we," who --

24 A Well, because it was always someone with
25 me, mostly we have these big bulk books that you have

1 to search through them, give it, look at it.

2 Q What were you searching for?

3 A Well, for the mineral rights, for the oil
4 rights, for the gas drilling, for all of those things.

5 Q Okay.

6 Who asked you to search for those rights?

7 A That was a little project from
8 Mark Flaherty.

9 Q Did you -- it sounds like you are giving a
10 title opinion. Are you familiar with what a title
11 opinion is?

12 A No.

13 Q No? Okay.

14 Were you rendering an opinion as to who
15 owned, say, certain mineral rights; is that what you
16 were looking for?

17 A I was not rendering that in that kind of
18 mineral rights per se. I was only rendering what the
19 deed, at the county office -- at the County Office
20 Building says.

21 Q So you were --

22 A Because we were going from the Controller's
23 Office to the County Office Building, where we find
24 the original deeds to the property, that was deeded
25 from one person to another, and that's what we did.

1 Q Are you aware of functions related to
2 mineral rights being a statutory function of the
3 Controller's Office, something the Controller's Office
4 is tasked with?

5 A No.

6 Q No?

7 A Don't have the answer to that.

8 Q Okay.

9 How frequently were you called to
10 investigate Marcellus shale mineral rights?

11 A There was a period of time we spent months
12 search for all of those properties.

13 Q On behalf of whom?

14 A Mark Flaherty.

15 Q So Mark Flaherty said to you, "For my
16 personal knowledge, I want to know who owns all of the
17 mineral rights in this county"?

18 A I -- Mark Flaherty never said to me exactly
19 that. Mark Flaherty made it clear it was interest for
20 Marcellus shales.

21 The property at the airport, and other
22 properties the county owned, and all of the other
23 properties, he was interested, and we did that.

24 Q Did he tell you why he was interested?

25 A No.

1 Q You didn't ask?

2 A No.

3 Q And, you didn't follow up with any type of
4 written report, on what you found?

5 A There were others who did the written
6 report.

7 Q But you didn't produce that report?

8 A I did not.

9 Q Okay. Who were on some of the other people
10 who were doing this investigation with you; can you
11 give me some names?

12 A Terry Matuszak was there,
13 Stanley Kaczmarek was there, I was there.

14 Q You were where, by the way, you're
15 referencing this place?

16 A We were in reference to the County Office
17 Building, to which all of the deeds and all of those
18 stuff.

19 Q Okay. I'm sorry, I interrupted you when
20 you were giving a list of names. Matuszak,
21 Kaczmarek.

22 Anybody else?

23 A Kaczmarek.

24 Then there is a young fellow, that escapes
25 me now.

1 There is one more person, escapes me, the
2 name, which put the report together.

3 Q And he is the guy that wrote the report?

4 A Put the report together, yes, sir.

5 Q Terry Matuszak wouldn't have written the
6 report?

7 A No.

8 Q And Stanley Kaczmarek wouldn't have
9 written the report?

10 A No.

11 Q So there is this other young guy who wrote
12 reports.

13 Do you know if this person is still
14 employed by the Controller's Office?

15 A No, he was let go.

16 Q He was let go. Okay.

17 How frequently was Terry Matuszak working
18 on Marcellus shale issues for Mark Flaherty?

19 A I --

20 Q Okay.

21 A -- don't know.

22 Q What about Stanley Kaczmarek, do you
23 recall him being heavily involved in Marcellus shale?

24 A I don't know how heavy involved they were.

25 Q Stanley Kaczmarek's position was -- was it

1 A I mean -- I'm sorry, I mean we, I mean, I
2 went.

5 Q Did you go every month; you were the sole
6 attendee at these meetings?

7 A I was supposed to go. The meetings were
8 not always every month. They were --

9 Q Did you attend them all, though, whenever
10 they did happen?

11 A Most of them.

12 Q Did anybody else from the Controller's
13 Office ever attend them?

14 A Shuman Center, no one attended.

15 Sport authority, from time to time there
16 were a couple of people, which they went.

17 Q When you attended one of these meetings, on
18 behalf of the Controller's Office, whatever meeting it
19 may have been, did you ever give some report, or
20 perhaps extol a position of the Controller's Office to
21 whichever board was meeting there; did you ever speak
22 to any of them?

23 A No, not really. Our presence was just
24 there, to be present. They were representing the
25 Controller's Office, nothing more than that.

1 Q Did you field questions from those board
2 members --

3 A No.

4 Q -- to the Controller's Office?

5 A No.

6 Q When you got back from one of those
7 meetings, did you write down any report, or any
8 summary of what had taken place at the meetings?

9 A No.

10 Q Did you give anybody a verbal report, as to
11 what had taken place at the meeting?

12 A To Mark?

13 Q To mark.

14 A He used to say, "Did you attend the
15 meetings?"

16 "Yes."

17 "What went on?"

18 Q Anybody other than Mark?

19 A No.

20 Q Okay.

21 A No.

22 Q It says, "Submits progress management
23 reports as needed," on the next item down there.

24 Can you describe what a progress management
25 report was?

1 A No.

2 Q Okay. Next item is, "Manage special
3 projects as needed."

4 I suppose we have talked a little bit about
5 what can be considered special projects, one I assume
6 to be the Marcellus shale project that you described.

7 Can you describe any other special
8 projects; those that you worked on, at least?

9 A There was a time that they were looking at
10 cars, rentals, leases, and purchase for the county, to
11 which I did the special project.

12 Q But what was the nature of the project?

13 A There was the cost of leases, compares to
14 purchase, how much gas, how much expense we had, and
15 who was driving what cars, and how much the cost was
16 to the county.

17 Q Okay. So the Controller's Office -- is
18 that an audit? Would that be fair to characterize it
19 as an audit?

20 A It wasn't really an audit, it was something
21 that they want done, they asked me to do it, and I did
22 that.

23 Q What did you specifically do, in the course
24 of this project? I want to get an idea of what kind
25 of work you did.

1 A Well, I went over to -- first, I went to --
2 I find out which cars we had that were driven by
3 officials, county officials, and just county in
4 general.

5 And then we looked at the cost of leasing,
6 in comparison to cost of buying.

7 Q You said "we;" did somebody work on this
8 project?

9 A No, I did -- sorry, I did the project
10 myself, I mean, that was the interest they had.

11 Q What type of --

12 A To save any money.

13 Q What type of information or documentation
14 did you review, to do that comparison?

15 A Well, that's -- we have a fleet department
16 with the county, over there they have the car, the
17 numbers, who drives which car, the cost of the lease,
18 all of these things.

19 I compared them.

20 Q The fleet department, then, you were
21 communicating with folks over there, to get an idea of
22 what they were doing, or what these relative costs
23 were?

24 A Well, when you represent the Controller's
25 Office, you have a certain policy, you go there and

1 you something a little bit more specific than that.

2 Do you recall having been nervous during the
3 interview?

4 A I was not nervous with J.J. and Marty. If

5 I was nervous, it was the Controller --

6 Q When you talked to Chelsa?

7 A -- maybe I did.

8 Q But Chelsa wasn't in that meeting; right?

9 A No, she wasn't.

10 Q Did J.J. and Marty ask you to describe your
11 average workday at the Controller's Office?

12 A I don't really hundred percent remember
13 that.

14 Q Did you agree with what Mr. Abbott said
15 about your having a written list of your duties, that
16 you read during that meeting?

17 A I did not have that.

18 Q You did not have a list?

19 A No, I didn't do.

20 Q Okay. So his testimony was not accurate?

21 A Absolutely.

22 Q With respect to that. Okay.

23 Did they ask you for your, I guess I will
24 call it advice, on any aspects of the functioning of
25 the Controller's Office, anything that you thought

1 maybe could have been done better, anything that was a
2 problem?

3 A No.

4 Q How long do you remember the meeting
5 lasting for?

6 A Repeat it, please.

7 Q Oh, I'm sorry.

8 The total time that you were meeting with
9 those guys, about how long was it?

10 A Ten, 15 minutes.

11 Q Okay. Well, a little over a month after
12 that meeting, you found out that you would be laid
13 off; is that correct?

14 A I received that resignation letter,
15 whatever, yes.

16 Q All right. Let me show you the termination
17 letter, that you just referenced, to you.

18 MR. McGRAW: If the court reporter would
19 kindly mark that as Exhibit No. 3.

20 (Thereupon, Cupelli deposition Exhibit
21 No. 3 was marked for identification.)

22 BY MR. McGRAW:

23 Q Is that the letter that you received,
24 Mr. Cupelli; the one that you referenced a moment ago?

25 A Yes.

1 Q Okay.

2 A That was --

3 Q The second sentence of the first paragraph
4 of the letter explains that "It has been determined
5 that based upon the 2012 budget and the organizational
6 needs of the office as envisioned by Ms. Wagner as
7 well as other important factors which have been
8 considered, Ms. Wagner will take official action to
9 reduce certain personnel in the Department. Policy
10 8.0 provides that employment in the Office of the
11 Controller is at will. As such, Ms. Wagner will take
12 steps on January 2nd, 2012 to eliminate your position
13 and you will be laid-off effective on that date."

14 Did I read that correctly, sir?

15 A Yes.

16 Q So it says that your position was
17 eliminated; correct?

18 Is that the explanation given?

19 Does it say eliminated?

20 Q The last sentence of that first paragraph,
21 "As such, Miss Wagner will take steps on January 2nd,
22 2012, to eliminate your position;" correct?

23 A Yes.

24 Q After you received this letter, which
25 I suppose was either on or shortly after

1 December 23rd, 2011, as it's dated, did you talk to
2 anyone about it?

3 A I don't understand the question, as to who
4 did I talk to about it.

5 Q Anyone.

6 A Anyone in the office, anyone in the
7 administration, anyone --

8 Q Anyone generally. We will start with
9 anyone in the office, though.

10 A At some point in time, yes.

11 Q Some point in time, you spoke with someone?

12 A Well, because we went back to work prior to
13 her coming in, and was knowledgeable that we were let
14 go.

15 Q Do you remember who that would have been,
16 in the office?

17 A No.

18 Q Did you talk to Chelsa Wagner about it?

19 A No.

20 MR. McGRAW: We are coming up on 1:00
21 o'clock, I don't know what you guys -- I mean,
22 this might be a decent stopping point, if
23 everyone wants to go out and do lunch here for a
24 little while.

25 I think I have more than everyone is going

1 to want to sit through, without having, taking at
2 least a short break.

3 I don't know how to you want to handle it.

4 MS. ELZER: That's fine.

5 MR. McGRAW: Okay.

6 THE VIDEOGRAPHER: We are going off the
7 record at 12:53.

8 - - -

9 (Thereupon, at 12:53 o'clock p.m., a
10 luncheon recess was taken to 1:50 o'clock p.m.)

11 - - -

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1 A Some fellow that was working for us.

2 Q Working for who?

3 A At the phone store.

4 Q Okay. Jim Miller wasn't employed in the
5 Controller's Office?

6 A No.

7 Q Was he employed by the county?

8 A No.

9 MR. McGRAW: This will be Exhibit 16.

10 (Thereupon, Cupelli deposition Exhibit
11 No. 16 was marked for identification.)

12 BY MR. McGRAW:

13 Q This is a copy of -- well, we talked about
14 this a little bit earlier, but this is a copy of the
15 EEOC complaint that was filed, along with the
16 complaint that you filed, or along -- in this case,
17 along with the complaint that you filed, the civil
18 complaint in Federal Court.

19 Have you ever seen this document before;
20 Mr. Cupelli?

21 A If I have, I don't remember.

22 Q Okay.

23 A I don't recall that.

24 Q You don't recall. You look at page, it is
25 listed as page 2, it is actually the third page of the

1 document, is that your signature there, at the end?

2 A Yes.

3 Q And, it's signed October 15th of 2012, so
4 just over a year ago; correct?

5 A Okay.

6 Q Go one page back up, to page 1, but again
7 the second page of the document that I handed you.

8 A Okay.

9 Q Paragraph No. 5, close to the bottom of the
10 page, alleges that upon your being laid off, which we
11 hear about in paragraph 4, January 2nd, 2012, it says,
12 paragraph 5 says, "I was replaced by a substantially
13 younger individual."

14 Who was that individual who had replaced
15 you?

16 A We understood that Joe Asturi, that is no
17 longer there, was doing typically the works we were
18 doing for Mark Flaherty.

19 Q Who was it? I'm sorry, I didn't hear.

20 A Joe Asturi.

21 Q Can you spell that?

22 A Joe A-s-t-o-r-i, maybe. Asturi.

23 MS. ELZER: A-s-t-u-r-i.

24 MR. McGRAW: Asturi, okay.

25 Q And, you say you understood him to be --

1 A I -- we heard that. I don't -- I was not
2 in the office.

3 But then I have no contact with the office
4 at all.

5 Q Who told you that Asturi was doing the work
6 that you were doing?

7 A I don't really remember who, because there
8 was always conversation, all of us getting fired, and
9 people were saying things.

10 Q When were these conversations?

11 A Well, sometime in January. Sometime in
12 January 2012.

13 Q After --

14 A After.

15 Q After you were terminated?

16 A I was terminated December. I was
17 terminated before Chelsa Wagner was sworn in.

18 Q So you heard these conversations in the
19 office?

20 A The people we were talking to, there was
21 seven, eight of us let go, and whenever we had a
22 conversation, everyone was saying, "Oh, yeah, they let
23 us go, but that person did this, or the other person
24 did that;" there was --

25 Q That's what I want to know, where was this

1 conversation going on?

2 A This is with the people already had left
3 the office, everywhere, we talked on the phone, we saw
4 each other; when we saw each other, there was a
5 conversation going on.

6 Q Well, who told you Joe Asturi was doing the
7 job that you were doing?

8 A I don't remember exactly. I don't recall a
9 specific person that said that.

10 Q Do you recall when that was said to you?

11 A Well, sometime after we let go.

12 Q Okay.

13 A After we were let go, there was general
14 conversation, who was doing what.

15 Q What did they tell you about what
16 Joe Asturi was doing?

17 A That he was there. I don't know the title
18 he had, I don't know the work he did.

19 There was a conversation between the people
20 who were let go, that all of us kept on saying, "Oh,
21 yeah, he does less than anybody."

22 Q So, another person who was no longer
23 working in the Controller's Office, told you what they
24 knew about what was going on in the Controller's
25 Office; is that correct?

1 A There was some conversation with eight,
2 nine people, they let us go.

3 Q None of them were working in the
4 Controller's Office at that time?

5 A We were not in, we were not there, we were
6 fired, as far as we know.

7 Q Okay. So your -- the extent of your
8 knowledge, about who is allegedly serving in your
9 role, or was serving in your role in the Controller's
10 Office after you were terminated in January of 2012,
11 was based upon the representations of other terminated
12 employees?

13 A Yes.

14 Q Okay.

15 Paragraph 6 of the EEOC complaint says that
16 "Respondent also fired several other employees over
17 the age of 50, and replaced them with substantially
18 younger individuals."

19 Can you identify who those people were,
20 that were terminated, and who the younger individuals
21 were who replaced them?

22 A I -- not without a list of the people. I
23 don't -- you know, I don't remember. I don't know who
24 was there.

25 Q Can you give me an example of one

1 terminated person, and their younger replacement,
2 other than your own alleged replacement?

3 A I don't have a list of that.

4 Q Okay.

5 A With names.

6 Q But you will agree with me, that you signed
7 off on that as a fact in this complaint?

8 A Those -- yes, I did sign that.

9 Q Okay.

10 MR. McGRAW: I am going to, this is going
11 to be Exhibit No. 17.

12 (Thereupon, Cupelli deposition Exhibit
13 No. 17 was marked for identification.)

14 BY MR. McGRAW:

15 Q There you go, sir.

16 This is the civil complaint, the most
17 recent version, I suppose, of the civil complaint that
18 you filed against the Controller's Office; is that
19 correct?

20 The second amended civil complaint, as it
21 is entitled; is that correct?

22 A My attorney filed, yes.

23 Q That your attorney filed on your behalf?

24 A My behalf.

25 Q And of course, Mr. Kaczmarek, but we know

1 front of you, but I want to show you another document
2 here.

3 This is going to be No. 18.

4 (Thereupon, Cupelli deposition Exhibit
5 No. 18 was marked for identification.)

6 BY MR. McGRAW:

7 Q This memo was provided to Controller Wagner
8 by, as you can see, Guy Tumolo, who was then Deputy
9 Controller, and it is dated November 29, 2011. That
10 is about two weeks after the meeting that we discussed
11 earlier, with -- that you had with J.J. Abbott and
12 Martin Schmotzer; is that correct? November 29th,
13 give or take, about two weeks later?

14 A Yes.

15 Q Okay.

16 I am not going to read it again verbatim, I
17 will represent to you that, generally, it discusses
18 budgetary implications of personnel decisions; you can
19 certainly take time and read it, if you like.

20 I would like to refer you, however, to the
21 second page. The entire second page reads: "The
22 budget before Council is based on a one mill increase
23 in real estate tax. If the final budget does not
24 result in as much of an increase in appropriation, or
25 you wish to make some personnel changes, the following

1 positions were viewed as being part of the
2 Controller's immediate staff."

3 And it lists Communication Director
4 Pam Goldsmith, Administrative Assistant Randall
5 Hermann, Conflict Resolution Officer Terry Matuszak,
6 Real Tax Investigator Carmen Cupelli.

7 "With these options, you have the
8 flexibility to establish your own organization.

9 Another option is to create a new job title that is
10 more suitable to your organization and fund it from
11 the available appropriation."

12 Now, would you agree with Mr. Tumolo's
13 characterization of you as being part of Controller
14 Flaherty's immediate staff?

15 A No.

16 Q You were not part of his immediate staff?

17 A No, I wasn't.

18 Q You had testified earlier, and have
19 testified rather extensively, that you performed
20 pretty much whatever task they needed you to
21 perform --

22 A Right.

23 Q -- at the direction of the Controller; is
24 that an accurate depiction of your job?

25 A Yes -

1 Q Okay. But you would not characterize
2 yourself as being part of Mr. Flaherty's immediate
3 staff?

4 A Correct.

5 Q Okay.

6 MR. McGRAW: What number was I on; was that
7 18? We will call this No. 19.

8 (Thereupon, Cupelli deposition Exhibit
9 No. 18 was marked for identification.)

10 BY MR. McGRAW:

11 Q This is a memo from March 22nd, 2000, to a
12 Karen Evans, who is identified as being human
13 resources.

14 Was that Karen Evans' position at that
15 time, human resources, or was she a human resources
16 director; do you recall what Karen's position was?

17 A May be human resource director for
18 Allegheny County, not for our office.

19 Q I see. For the county. Okay.

20 It says that it's from Dorry Lang, from the
21 Controller's Office.

22 Do you know Dorry Lang?

23 A I can't put the face together, to this
24 name.

25 Q So you don't remember exactly what

1 Dorry Lang's position was in the Controller's Office?

2 A No.

3 Q The memo is short, it reads, "Effective
4 February 28, 2000 Carmen Cupelli was transferred to a
5 different job within the Controller's Office. I would
6 appreciate it if you would discontinue taking out the
7 deduction for union dues. If you need additional
8 information, please feel free to contact me at
9 extension 6997. Thank you for your attention to this
10 matter."

11 And there is a cc: to Chris Carragher,
12 payroll manager.

13 Did I read that correctly?

14 A Yes.

15 Q Does this memo reference the switch of
16 position that you described after you left payroll, or
17 payments, and moved into your -- I guess we haven't
18 given it a specific title, but your new job, your
19 other job in the Controller's Office?

20 A I -- I left payroll, as a payroll clerk, to
21 do those, whatever assignments were.

22 Q That's what I'm saying, do you take this
23 memo to be that's when you left; correct? Is it not
24 ten years after you told us you started in 1990, this
25 is March 2000, is that what this is, around that time?

1 A Yes, around ten years later.

2 Q And the memo doesn't give your new job
3 title; does it; it just says transferred to a
4 different job within the Controller's Office?

5 A No.

6 Q Is that accurate?

7 A Yes.

8 Q It does say that you are no longer to pay
9 union dues. Were you then not a member of the union
10 any more, when you transferred to this new job?

11 A Yes.

12 Q But you had been in the union when you
13 worked in payments, or payroll; right?

14 A Correct. Yes.

15 MR. McGRAW: This is going to be
16 Exhibit 20.

17 (Thereupon, Cupelli deposition Exhibit
18 No. 20 was marked for identification.)

19 BY MR. McGRAW:

20 Q This form is called the "County of
21 Allegheny Row Office & Court of Common Pleas
22 Employment Status Form."

23 This, again, was from your personnel file.

24 At the bottom it is called a master
25 employee status form. And it says, "Controller -

1 Payroll Division," which was the division that you
2 were in initially, in the Controller's Office;
3 correct?

4 A Yes.

5 Q Do you recognize this form?

6 A I don't recall this.

7 Q Okay.

8 A It is dated down next to the signature that
9 we see, March 7, 2000; correct? In the dated box?

10 A Yes.

11 Q The form indicates a change for present
12 employee in that second box down. And the changes are
13 checked as pay, an X in that box, and position, with
14 an X in that box; do you see that; what I'm
15 referencing in the second box down, the two X's?

16 A Change of position, is that what we are
17 looking for, pay and position?

18 Q Yes, there is a box checked, yeah, there is
19 a X in for pay, and X for position; do you see those?

20 A Yes.

21 Q Okay.

22 You go down to the next big box in.

23 A Okay.

24 Q There is at the bottom of that one, it says
25 "Position Title Fiscal Clerk;" that was correct for

1 your position at the time, wasn't it, you were a
2 clerk?

3 A I was a payroll clerk, as I knew it.

4 Okay.

5 Q The next box, which is box 2A, shows a
6 change, or correction and down towards the bottom of
7 that box, and there is position title, it says "Field
8 Supervisor;" do you see that?

9 A Yes.

10 Q Is that correct, is that the change in
11 position that you were making in March of 2000?

12 A Yes.

13 Q Also reflects your monthly salary changing
14 from \$2,144 per month to \$3,166.67 per month; is that
15 correct?

16 A Yes.

17 Q So is your position at that time called
18 field supervisor, and not real estate tax
19 investigator?

20 A I don't recall that, the titles.

21 Q Did you have a supervisory role then, at
22 that time?

23 A I don't remember that.

24 Q Okay.

25 You don't remember supervising anyone,

1 or --

2 A I never supervising anyone.

3 Q Okay.

4 MR. McGRAW: I will make this No. 21.

5 (Thereupon, Cupelli deposition Exhibit

6 No. 21 was marked for identification.)

7 MR. McGRAW: Christine.

8 BY MR. McGRAW:

9 Q This is something called a payroll action
10 form, and it shows an effective date of October 3rd,
11 2004.

12 This again from your personnel file.

13 A Okay.

14 Q This one to me looks like this is a pay
15 raise, and in that budget justification, just below
16 the middle of the page, it says "Increase in Maximum
17 Salary," so it looks like in October of '04, you got a
18 pay raise; does that sound right?

19 A Okay. Yes.

20 Q Under "Position Title," which is a little
21 closer to the top, in the "Current Status" box, it
22 again says "Field SUPV," I think that's abbreviated
23 for field supervisor; is that correct?

24 A I don't see that.

25 Q It's second box down, "Current Status," it

1 says at the top, in about the middle of that box, it
2 says "Field Supervisor," in bold type.

3 Up a little bit from where you are looking
4 there, go straight up.

5 A Oh.

6 Q Have you got that?

7 A Yes.

8 Q Okay.

9 MR. McGRAW: This will be No. 22.

10 (Thereupon, Cupelli deposition Exhibit
11 No. 22 was marked for identification.)

12 BY MR. McGRAW:

13 Q This is another payroll action Form, this
14 time dated December 23rd -- or, I beg your pardon,
15 this one was dated -- did I just show you the wrong
16 one, did I show the same one twice?

17 Oh, no. Okay. This one is dated December
18 of '07, I'm sorry, I am getting myself in the wrong
19 place.

20 Do you see where it's dated December 23rd,
21 '07 --

22 A Yes.

23 Q -- effective date?

24 This is one, we actually have an attachment
25 on this one, the second page, this looks like another

1 pay raise, in fact, budget justification is given as
2 merit raise; do you see that?

3 On that second page, we see where you
4 were -- one, two, three -- I think the fifth person
5 down?

6 A Yes.

7 Q And your job title again is listed as field
8 supervisor; do you see that?

9 A Yes.

10 MR. McGRAW: Here is the 2011 one, this
11 will be Exhibit 23.

12 (Thereupon, Cupelli deposition Exhibit
13 No. 23 was marked for identification.)

14 BY MR. McGRAW:

15 Q This one is the one from July of
16 2011. July of 2011, was a couple of months after
17 Miss Wagner won the Democratic primary for County
18 Controller; is that correct?

19 A No, she won the election in November.

20 Q Well, I'm saying, the Democratic primary,
21 would have been in May 2011?

22 A Yes.

23 Q But it was before the general election; is
24 that right?

25 A Yes.

1 Q Okay.

2 This one appears to give you another pay
3 increase, it says "Budget Justification, 3 Percent
4 Merit Increase," this one also lists -- in that
5 current status box towards the top that we saw before,
6 lists a different position title for you this time, it
7 says "Real Estate Tax Investigator;" do you see that?

8 A Yes.

9 Q Would you agree with me that the first time
10 that the payroll documentation reflects that your job
11 title is real estate tax investigator -- or rather,
12 field supervisor, is a few months after Chelsa Wagner
13 won the primary, and a few months before the general
14 election?

15 A I don't have any answers to that.

16 We hired Art Victor, that was our -- an
17 assistant deputy, to which every day they were
18 changing titles.

19 Q Okay.

20 A So, even though we did the same work, as
21 the same others, we really didn't know what --

22 Q Well, we went through sequentially, I will
23 represent to you, all of the payroll forms --

24 A Okay.

25 Q -- that I found in your personnel file.

1 A Yeah.

2 Q This is the first one that references real
3 estate tax investigator, that we -- that you and I
4 just went through here; is that correct?

5 A Yes.

6 Q Okay.

7 MR. McGRAW: This should be Exhibit No. 24.

8 (Thereupon, Cupelli deposition Exhibit
9 No. 24 was marked for identification.)

10 BY MR. McGRAW:

11 Q This is yet another item from your
12 personnel file, Mr. Cupelli.

13 Do you recall receiving a performance
14 evaluation in what we see here is dated June 15th,
15 2011; do you recall seeing this before?

16 A We had some conversation, I remember having
17 a conversation with Stanley, and briefly conversation
18 about this.

19 Q So you have seen this document before?

20 A You know, I -- probably I have, yes.

21 Q Okay.

22 A Not this particular document, but I was
23 aware of this.

24 Q Did you receive written evaluations like
25 this regularly?

1 Kaczmorski and Cupelli with significantly younger
2 individuals."

3 And paragraph 27 reads, "Defendants also
4 discharged at least six other employees over the age
5 of 50."

6 I asked you this earlier, but again, you
7 identified Mr. Asturi, you cannot identify by name any
8 of those other individuals; correct?

9 A At that time I had a list of names. I no
10 longer have that.

11 So, it's hard for me.

12 Q Okay.

13 Moving down to paragraph 29, it reads,
14 "Defendants replaced Kaczmorski and Cupelli with
15 individuals who actively supported Wagner during her
16 2011 campaign for Controller."

17 Can you identify which public supporter
18 of Miss Wagner replaced you as real estate tax
19 investigator?

20 A Well, we knew at the time it was the
21 Joe Asturi was the support of the Controller, was
22 doing fundraisers for her, was doing all of the work
23 that was required for a campaign.

24 Q Okay.

25 A We knew that to be fact at the time.

1 Q So you knew Joe Asturi had been a
2 supporter?

3 A Yes.

4 Q Paragraph 30 reads, "Kaczmorski and Cupelli
5 were not known supporters of Wagner during her 2011
6 campaign for Controller."

7 How would one become a known supporter of
8 Miss Wagner, or any political candidate, for
9 Controller?

10 A Well, they have a petition drive, to which
11 you sign the petition supporting others. And
12 technically, that's how they get around to -- plus we
13 had affairs, where all of the politicians gather, and
14 others, so you tend to know who supporting who for
15 what.

16 Q So, at those affairs, then, if someone
17 attended one of them, that was a public declaration of
18 their support for that candidate, I suppose; is that
19 what you mean?

20 A Sure. If you were in an affair, and
21 someone says, "Sign the petition for Chelsa Wagner for
22 Controller," and you don't sign it, obviously, it is
23 that you were not a supporter of her.

24 Q Were you a publicly known supporter of any
25 other candidate for Controller?

1 A We didn't support anyone, because
2 Mark Flaherty wanted us to stay away from the
3 political area, since he was running for county
4 executive.

5 Q Were you known to oppose Chelsa Wagner's
6 candidacy for Controller?

7 A I don't know if it was known or not known
8 at the time. I mean, I have tended to support
9 George Matta, but I didn't make a deal out of it right
10 in the open.

11 Q So you wouldn't characterize yourself as a
12 known supporter of Joe Matta; you didn't work on
13 George Matta's campaign?

14 A No, I did not.

15 Q Did you attend any of George Matta's
16 campaign events?

17 A No.

18 Q Did you tell anybody you were supporting
19 George Matta?

20 A I probably, maybe was known, and I did
21 not -- you know, in the inner circle.

22 Q You had referenced this actually, but I
23 will read it, it is actually your paragraph 31 of your
24 complaint, it says, "Indeed, the previous Controller,
25 Mark Patrick Flaherty, prohibited employees of the

1 Office of Controller, including Kaczmorski and
2 Cupelli, from publicly supporting any candidates for
3 Controller."

4 So that's the policy you were talking
5 about, that --

6 A Right.

7 Q -- Mark Flaherty had, that you weren't
8 allowed to actively --

9 A Well, we were allowed to do things, as long
10 as we were doing the work hours, he preferred we do
11 nothing at all.

12 Q Okay. So he preferred you do not?

13 A Nothing at all.

14 He had no control over us in the evening
15 hours, or on your own time.

16 Q Okay. Did anybody who worked with you in
17 the Controller's Office before Miss Wagner was
18 elected, did any of those people, that you know of,
19 break Mr. Flaherty's rule, and publicly support one
20 candidate for Controller over the other?

21 A I don't know that.

22 Q Okay.

23 To your knowledge, are there still
24 individuals employed in the Controller's Office, who
25 were employed there prior to Miss Wagner becoming

1 Controller? Are there any employees left there, that
2 were there when you were there?

3 A In the office, on the first floor, where
4 her office is located, the only person as I
5 understand, from testimony in here, that is
6 Rita Martini. All of the others, she replaced every
7 one of them.

8 Q Well, any employees generally, do you know
9 if --

10 A Well, there is a hundred employees in our
11 office, I am sure she didn't replace a hundred
12 employees.

13 Q To your knowledge, she kept a pretty fair
14 amount of them, then?

15 A Well, she kept all employees away from the
16 inner circle, where she was on the -- in her office.

17 Q Did Miss Wagner ever ask you to support
18 her, or to publicly support her, during her campaign?

19 A No, she did not.

20 Q Okay. Did you ever speak with her, during
21 the course of her campaign for Controller?

22 A Probably say hello in the affairs, and
23 nothing more than that.

24 Q Did you ever feel compelled to explain to
25 Miss Wagner why you did not publicly support her, and

1 it was because of this policy that Mr. Flaherty had?
2 Did you ever go up to Chelsa, and feel you had to give
3 her that explanation, as to why you weren't a public
4 supporter of her?

5 A No, we never give explanation to anyone.

6 Q She didn't ask you for that explanation?

7 A She didn't ask, and we didn't give it.

8 Q The next page of your complaint,
9 paragraph 33, says, "However, Defendants paid the
10 employees who replaced Kaczmarek and Cupelli higher
11 salaries."

12 Do you know -- I guess you said the person
13 who replaced you was this Joe Asturi, do you know what
14 Mr. Asturi makes; what his salary is?

15 A I don't.

16 Q Do you know the salaries of any of these
17 other replacement employees that you referenced?

18 A I don't.

19 Q Okay.

20 Just a couple of more things for you,
21 Mr. Cupelli.

22 This is going to be -- where am I at
23 here -- 25. Exhibit No. 25.

24 (Thereupon, Cupelli deposition Exhibit
25 No. 25 was marked for identification.)

1 Q This is another form from your personnel
2 file, it is called at the top here, called a special
3 payment form, and it shows a calculation of total
4 hours for vacation, and personal days, and it
5 calculates about half way down the page this number
6 \$4,818.82, and that number is transcribed into a box
7 at the bottom that says, "Total payment, \$4,818.82;"
8 is that, as I read the form?

9 A Yes.

10 Q Okay.

11 The second page is called a payroll
12 voucher, the Controller of Allegheny County, it shows
13 the same amount, these two calculations total
14 \$4,818.82. Were you paid that amount, after you were
15 laid off, for your vacation and personal days?

16 A I was paid my personal days. I don't know
17 if they were paid once, she was sworn in, or it was
18 prior to, but I was paid.

19 Q Okay. You did receive this payment,
20 though?

21 A Yes.

22 Q Okay.

23 A It says I received it, I received it.

24 Q Okay.

25 MR. McGRAW: And this is going to be

1 No. 26.

2 (Thereupon, Cupelli deposition Exhibit

3 No. 26 was marked for identification.)

4 BY MR. McGRAW:

5 Q These are some more documents that I found
6 in your personnel file, these are with regard to your
7 pension.

8 This first one that we see here, is an
9 e-mail, it says, it is to Linda Piso, from a
10 Barbara Bateman, from November 20th, 2012.

11 It says:

12 "Linda,

13 "We had sent notification to Mr. Cupelli
14 several times. The last time was the statement dated
15 6/28/12 informing him that if he did not complete his
16 retirement papers we would no longer go retroactive to
17 his date of retirement. He finally completed his
18 retirement papers July 11, 2012. His first check was
19 August 23rd, 2012 in the amount of \$15,279.62
20 gross. His monthly pension \$1,925.48.

21 "Let me know if I can be of further
22 assistance.

23 "Barb."

24 Why did you not complete your retirement
25 papers timely, as these two seem to be referencing, in

1 order to obtain your pension?

2 A The reason why is that I was trying to get
3 back into somewhere in the county.

4 Q Okay.

5 A And I didn't want to take my pension out.

6 Q Okay.

7 A To pay back.

8 Q So you didn't want to actually apply for
9 the pension?

10 A The pension, until it was clear, that --

11 Q Okay.

12 The second page of the document I handed
13 you, it appears to actually be that June 28, 2012
14 statement, that these two referenced in that previous
15 e-mail that we just looked at.

16 Did you receive this statement?

17 Do you recall receiving it?

18 A I don't recall, but I'm sure I did.

19 Q Okay.

20 It read that, "Dear Mr. Cupelli:

21 "As of John 3rd, 2012, at age 67 you were
22 eligible to begin receiving monthly benefits. As of
23 today, you have not signed your retirement papers. We
24 have for the second time sent the forms for you to
25 complete. These forms need to be returned to the

1 Retirement Board to begin to receiving the benefits.
2 "If you wish to collect your pension at a
3 later date, we would appreciate it if you would
4 complete the information below; have it notarized and
5 sent to the Retirement Office. In choosing in
6 delaying the signing of your papers, your retirement
7 will not be calculated retroactively to your last day
8 of employment. Your retirement date will be the day
9 you choose to sign and return your papers."

10 Did I read that correctly?

11 A Yes.

12 Q Did you eventually respond to this notice?

13 A Yes.

14 Q Okay. If we look at this third page it
15 says, "Retirement Board of Allegheny County,
16 Retirement Quotation," and so far as I can tell, it
17 appears to be exactly that, it calculates total
18 without survivor option, of this number that we saw
19 previously, \$1,925.48.

20 There are some notes at the bottom, we
21 don't see who they are from. It says, "Called and
22 left message August 10, 10:22 and 12:13." I take
23 those to be times of day.

24 Do you recall having received phone
25 messages from the Controller's Office, or from the

1 county retirement office, attempting to get you to
2 sign those papers?

3 A I don't recall specifically, but at some
4 point I did sign the papers, because I did get my
5 pension.

6 Q Okay. Ultimately you did get your pension?

7 A I did get my pension.

8 Q Is that accurate, is your pension in the
9 amount of \$1,925.48 per month, right now?

10 A Yes. That's correct.

11 MR. McGRAW: I think that that is all of
12 the questions I have for now. Thank you,
13 Mr. Cupelli.

14 MS. ELZER: Okay. I have just a few, do
15 you -- should I just continue right now? I see
16 you are being passed a note. So I don't know.

17 MR. McGRAW: You can go right ahead, and I
18 will ask a few, if they are --

19 MS. ELZER: Okay.

20 EXAMINATION

21 BY MS. ELZER:

22 Q Okay. Carmen, I just -- I first wanted to
23 go over the kind of hierarchy, or chain of command,
24 make sure we have that clear.

25 I believe you testified that you report

1 to -- you reported to Stan Kaczmorski; is that right?

2 A Yes.

3 Q Okay. And who did Stan Kaczmorski report
4 to?

5 A Art Victor.

6 Q Okay.

7 A He was hired, some point, Kaczmorski would
8 report to him, so did I, all of us.

9 Q Okay. And then do you know who Art Victor
10 reported to?

11 A That, if I am not mistaken, directly to
12 Frank -- not to Frank Luchino -- directly to
13 Mark Flaherty.

14 Q Okay.

15 Did you have any reporting relationship to
16 Guy Tumolo?

17 A We had little.

18 Q What was his position?

19 A The deputy.

20 Q So was he immediately below Mr. Flaherty?

21 A Yes.

22 Q Okay.

23 All right. And in your position, whether
24 it was real estate tax investigator, or whether it was
25 field supervisor, did you have any responsibility for

1 A Yes.

2 Q Where do you live?

3 A Right now, Wilkins Township.

4 Q In Wilkins Township. Have you always lived
5 in that Wilkins Township?

6 A No, McKees Rocks.

7 Q Oh, you were from McKees Rocks originally?

8 A Yes.

9 Q Are you a life-long Allegheny County
10 resident?

11 A Yes.

12 Q Okay. We talked a little bit earlier,
13 about that you were telling me about that rental car
14 versus purchasing the cars, the fleet department
15 issue.

16 A Right.

17 Q I just wanted to clarify, the collection of
18 rental car taxes, was not related to that project;
19 correct?

20 A No.

21 Q That was -- okay. Okay. That's one of the
22 things that you characterize as a special project.

23 Were most of these special projects that
24 you performed one time things, or did you perform any
25 of them, the same project, or similar project, over

1 and over again?

2 A No. One time, two times, depended on the
3 situation.

4 They needed something done, they wanted to
5 look at the piece of property at the airport, and the
6 county garage, or those things, they were one time
7 project that I used to go and speak to the people,
8 know who to speak to and get the answer, and come back
9 with the answers.

10 Q So something like the car rental, or the
11 car purchasing thing, that would have been more of a
12 one time project then?

13 A That was one time, because they didn't like
14 the answers.

15 Q Fair enough.

16 They didn't want to hear it again, I guess;
17 huh?

18 The only other thing I wanted to ask you
19 about --

20 A How about that.

21 Q -- we of course touched on, and talked a
22 little bit about what was in your complaint, about
23 support of Chelsa Wagner's campaign, or nonsupport of
24 Miss Wagner's campaign for Controller's Office, was
25 there anything said to you, whether it was from

1 Miss Wagner, or anybody else, anything said to you
2 that indicated that your termination was as a result
3 of your not having supported Miss Wagner's campaign?

4 A I received the letter even before she was
5 sworn in. That's all I can tell you.

6 Q She had won the election then; right?

7 A She had won the election, but she's not
8 sworn in. She had no knowledge of the things I did,
9 or not.

10 My position was, I worked with three
11 Controllers for 21 years, always done a good job,
12 always been dependable, and hard-working for these
13 people, and Controller Wagner chose to not to retain
14 me, and I received a letter, that we all have, what,
15 in December.

16 Q Do you think Controller Wagner knew who you
17 were, prior to taking office?

18 A Sure.

19 Q Okay.

20 What made you believe, that once you
21 received the letter, how did you come to the belief
22 that it must be because you didn't support her, or
23 didn't publicly support her for the office of
24 Controller?

25 A Because we were never -- I was never given

1 the opportunity to really talk to her, in the things
2 that I had done.

3 I know she said that I was never send,
4 that's true, but I also was in the Controller's Office
5 21 years, and I also worked for Frank Luchino, that
6 she claims was the best Controller that Allegheny
7 County has, or ever had, so if I was there with
8 Frank Luchino for 13 years, we were never given, you
9 know, it came she had predecided and prejudged, and
10 let us go.

11 Q So no one ever told you that you were being
12 let go because you failed to support Controller
13 Wagner?

14 A No.

15 Q And Controller Wagner didn't say anything
16 like that to you?

17 A No, she did not.

18 Q Is there any other reason that you believe
19 this was a political retaliation, anything else you
20 heard, or said, or saw?

21 A Well, I was a supporter of Dan Onorato at
22 that time that Jack Wagner run for the state senate,
23 that had the big feud, that really -- and I know that
24 was known facts, around politics, that Onorato and
25 Wagner had, and I was a big time supporter of Onorato.

1 Q Mr. Onorato did not run against Mr. Wagner
2 for the state senate.

3 A For the senate, he did.

4 Q I believe, are you talking about --

5 A For the senate, four years ago.

6 Q -- governor or senator?

7 A Senator.

8 Q Okay.

9 Was there any reference made to that
10 campaign, to you, then, when you were let go?

11 A No.

12 Q Is there any other reason, or anything else
13 that led you to the belief, then, that it must have
14 been because of your support for Onorato?

15 A The only reason make me believe, is we were
16 never given the opportunity to keep us.

17 Q All right.

18 A To keep. After 21 years, I was never given
19 the opportunity to keep me. Never said, "Let's" -- "I
20 want you to do this job," and I refuse, "I want you to
21 do that," and I said, "No."

22 You know.

23 Q Okay.

24 MR. McGRAW: I have no further questions.

25 MS. ELZER: Okay. I have a couple for

1 follow up.

2 EXAMINATION

3 BY MS. ELZER:

4 Q Carmen, I am going to show you the
5 complaint that was marked as Exhibit 17, I will just
6 give you my copy.

7 And if you look at paragraph 20, this is
8 about Mr. Kaczmorski, but it says, "During Wagner's
9 interview with Kaczmorski, she told him that she was
10 very loyal to her people."

11 Do you see that?

12 A Yes.

13 Q Did Miss Wagner make any similar comment
14 like that to you?

15 A Exactly, the same comment.

16 Q Okay. When did she say that?

17 A When, that was the only time we met with
18 her, in the office, that we had a little interview
19 with her.

20 Q Would that have been --

21 A Sometime in December.

22 Q Of 2011?

23 A 20 -- yes, once --

24 Q Go ahead.

25 A Once she won the election, she interviewed